

**Calendar No. 700**

105TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
105-367 }

# STATISTICAL CONSOLIDATION ACT OF 1998

## R E P O R T

OF THE

### COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

#### S. 1404

TO ESTABLISH A FEDERAL COMMISSION ON STATISTICAL POLICY TO STUDY THE REORGANIZATION OF THE FEDERAL STATISTICAL SYSTEM, TO PROVIDE UNIFORM SAFEGUARDS FOR THE CONFIDENTIALITY OF INFORMATION ACQUIRED FOR EXCLUSIVELY STATISTICAL PURPOSES, AND TO IMPROVE THE EFFICIENCY OF FEDERAL STATISTICAL PROGRAMS AND THE QUALITY OF FEDERAL STATISTICS BY PERMITTING LIMITED SHARING OF RECORDS AMONG DESIGNATED AGENCIES FOR STATISTICAL PURPOSES UNDER STRONG SAFEGUARDS



OCTOBER 6 (legislative day, OCTOBER 2), 1998.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

69-010

WASHINGTON : 1998

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Mr. THOMPSON, from the Committee on Governmental Affairs,  
submitted the following

### REPORT

[To accompany S. 1404]

The Committee on Governmental Affairs, to which was referred the bill (S. 1404) to establish a Federal Commission on Statistical Policy to study the reorganization of the Federal statistical system, to provide uniform safeguards for the confidentiality of information acquired for exclusively statistical purposes, and to improve the efficiency of Federal statistical programs and the quality of Federal statistics by permitting limited sharing of records among designated agencies for statistical purposes under strong safeguards, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

#### I. PURPOSE

The purpose of S. 1404, the Statistical Consolidation Act of 1998, is to establish a Commission to study the reorganization of the federal statistical system and to allow federal agencies to share data for exclusively statistical purposes under uniform confidentiality safeguards.

#### II. BACKGROUND

Beginning with the first census of population mandated by the Constitution, the statistical infrastructure of the United States has grown significantly in size and scope. Today, there are 70 federal agencies involved in some aspect of data collection, analysis and dissemination, with total expenditures exceeding \$3 billion annually. Yet despite the investment of resources, the federal statistical infrastructure is losing pace with our changing economy and society. Technological and scientific advances and the shift to an infor-

mation-driven global economy require that our nation's statistical system be modernized to meet the needs of policy makers and other data users in the 21st century.

The Statistical Consolidation Act is a first step toward updating the federal statistical system and improving the quality of government data. S. 1404 is intended to address duplication and inefficiency within the federal statistical system by establishing a Commission to study the current organization of federal statistical activities and recommend how the federal government's main statistical agencies—the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics—and perhaps other statistical activities performed in and around the federal government can be consolidated into a single “Federal Statistical Service”.

Specifically, Title I of the bill establishes a 15-member commission, comprised of the Chief Statistician of OMB, a chairman and five members appointed by the President, four members appointed by the Speaker of the House, and four members appointed by the President Pro Tempore of the Senate.

The functions of the Commission are to recommend how the Bureau of Labor Statistics, the Bureau of Economic Analysis, and the Bureau of the Census could be consolidated in a single “Federal Statistical Service” by October 1, 2001; whether functions of other statistical agencies should be transferred to a Federal Statistical Service; and, whether decennial census functions should be delineated from other Census Bureau functions, and how such a delineation of functions might be achieved. The Commission must report to Congress on these recommendations within 18 months of enactment of this Act, and terminates three years after the enactment of this Act.

If the Commission recommends consolidation of BLS, BEA and the Census Bureau in a Federal Statistical Service, the Commission's report must include legislation incorporating those recommendations.

The Commission has also been tasked with conducting studies on all aspects of the Federal statistical infrastructure. As part of this duty, commissioners will review and make recommendations regarding the quality and timeliness of statistics; the relationship between the federal government and States, localities, other nations and international agencies with respect to the generation and dissemination of data; the interrelationship of information technology, statistical data and personal privacy; and, standards of accuracy for leading economic and social indicators. The Committee believes that improving the usefulness of social indicators, including marriage and divorce rates, will aid data users, both public and private, in evaluating how government policies affect the American family.

Title II of the bill is entitled the “Statistical Confidentiality Act.” The title has the dual purpose of shoring up confidentiality standards while allowing eight agencies to share statistical data for purely statistical purposes. The agencies are: the Census Bureau, the Bureau of Labor Statistics, the Bureau of Economic Analysis, the National Agricultural Statistical Service, the Energy Information Administration, the National Council of Educational Statistics, the National Council of Health Statistics, and the National Science

Foundation. By covering these agencies under uniform confidentiality safeguards, the legislation strengthens protections at the Bureau of Labor Statistics, the National Science Foundation and the Energy Information Administration, which do not currently have strong legal protections.

While the Paperwork Reduction Act gives OMB's Office of Statistical Policy the authority to make data sharing agreements among agencies, it is done on a case-by-case basis. The intent of this title is to streamline and facilitate such interagency exchanges and to aid interagency cooperation with regard to statistical data while maintaining confidentiality. The Committee expects this title to lead to the consolidation of government surveys where possible and a corresponding decrease in the burden that responding to such surveys imposes on the public.

### III. SECTION-BY-SECTION ANALYSIS

#### *Section 1. Short title; table of contents*

This section states the short title of the bill and lists the table of contents.

#### *Section 2. Findings*

This section states the findings of Congress that statistical information is important in developing national priorities and policies and that the Federal government should coordinate the gathering and ensure the confidentiality of statistics.

#### *Section 3. Sense of Congress*

This section states the importance of efficiency and integration with regards to statistical information, the importance of the role of the Chief Statistician, and the necessity for a distinction between statistical forms clearance and regulatory forms clearance.

### TITLE I—FEDERAL COMMISSION ON STATISTICAL POLICY

#### *Section 101. Establishment*

A Commission to be known as the "Federal Commission on Statistical Policy" is to be established. The Commission will be made up of the Chief Statistician of the Office of Management and Budget, as well as a Chairman and five members appointed by the President, and four members appointed by the Speaker of the House, and four members appointed the President Pro Tempore of the Senate. Members are qualified to serve on the Commission by virtue of experience relating to the Bureau of the Census, the Bureau of Economic Analysis, or the Bureau of Labor Statistics or if they have expertise relating to organizational reorganization, State sources and uses of statistical information, statistical analysis, or management of complex organizations.

#### *Section 102. Duties of the Commission*

The purpose of the Commission is to make recommendations on how the Federal statistical system can be reorganized, and whether the functions of the numerous statistical bureaus and offices in the Federal government can be consolidated. The recommendations must be completed within 18 months of the enactment of the Act

and will be submitted to Congress and the President in the form of a written report and draft legislation.

Within 15 days of receiving the report, the President will either approve or disapprove the report. If the report is approved, it will be submitted to Congress on the day following approval. If the President takes no action within 15 days, the report will be submitted to Congress at the end of the 15-day period. If the President disapproves of the report, he must give his specific objections and/or his suggested changes to the Commission. Based upon these suggestions, the Commission may make changes to the report before submitting it to Congress. The report must be sent to Congress within ten days of receiving the President's disapproval.

If the report makes recommendations on consolidating the statistical functions of the Federal government, including the Bureau of Labor Statistics, the Census Bureau and the Bureau of Economic Analysis, into one Federal Statistical Service, the report will also contain draft legislation incorporating these recommendations.

The Commission will also be responsible for conducting studies on all matters relating to the Federal statistical infrastructure.

#### *Section 103. Powers*

The Commission has the authority to hold hearings, obtain testimony, and receive evidence for the purpose of carrying out its purpose.

#### *Section 104. Commission procedures*

The Commission shall meet at the call of the Chair or a majority of members. The Commission shall adopt any recommendation by a vote of a majority of its members; however, the consolidation of BLS, BEA, and Census into the Federal Statistical Service will take place unless a majority votes against the consolidation and certifies to Congress that the consolidation would not improve the statistical system.

#### *Section 105. Personnel matters*

Members of the Commission will receive basic pay for level IV of the Executive Schedule for each day spent working on the Commission. All travel expenses will be paid in accordance with the appropriate sections of the United States Code. Staff, including an Executive Director, may be appointed and paid as appropriate.

#### *Section 106. Other administrative provisions*

This section allows the Commission to use the US mail, printing and binding services as other agencies. The Commission may also request administrative support and utilize consultants.

#### *Section 107. Termination*

The Commission will terminate three years after the enactment of this Act.

#### *Section 108. Authorization of appropriations*

Necessary funding is authorized to be appropriated for the Commission.

TITLE II—EFFICIENCY AND CONFIDENTIALITY OF FEDERAL  
STATISTICAL SYSTEMS

*Section 201. Short title*

This section states the short title of this section.

*Section 202. Findings and purposes*

The section stating findings and purposes reaffirms policies that have been applied to confidential data by statistical agencies for many decades and extends these policies to protect confidentiality while permitting the sharing of information for exclusively statistical purposes. It recognizes that credible protection of confidentiality is essential to ensure the level of cooperation that produces accurate and timely responses to statistical inquiries.

*Section 203. Definitions*

Section 3 establishes definitions that determine the scope of the Act.

*Section 204. Statistical data centers*

This section establishes selected agencies whose purposes are predominantly statistical/analytical as “Statistical Data Centers” and provides authority for dealing with any future reorganizations affecting a Statistical Data Center designated by this Act. If an agency listed above is eliminated or has its mission substantially changed in a reorganization, the Director of OMB may designate an agency to serve as a successor Statistical Data Center after a public comment period.

*Section 205. Statistical data center responsibilities*

This section assigns general responsibilities to the agencies designated as Statistical Data Centers. It specifically charges them to observe “fair information practices,” a set of policies elaborated and endorsed in reports of both the Privacy Protection Study Commission and the Paperwork Commission.

*Section 206. Confidentiality of information*

A uniform confidentiality policy is established consistent with the Paperwork Reduction Act (PRA) for data acquired for exclusively statistical purposes, by prohibiting disclosures of such data for non-statistical purposes and limiting disclosures for statistical purposes. Heads of Statistical Data Centers are required to resolve by rule any questions concerning whether information may be disclosed prior to the collection of that information.

*Section 207. Coordination and oversight*

The Director of the Office of Management and Budget shall coordinate and oversee confidentiality and disclosure policies. These shall include any disclosure agreement, results of any review of information security, the results of any similar review taken on the initiative of the Statistical Data Center or similar agency. A summary of these reports and any action taken shall be made by the Office of Management and Budget and be given to Congress in the annual report of that office.

*Section 208. Implementing regulation*

Rulemaking is authorized to implement the Act. OMB, Statistical Data Centers, and other agencies that may provide data to one or more Centers under this Act are authorized to establish formal policies for such exchanges consistent with their mandates, as long as such rules are also consistent with the Paperwork Reduction Act.

*Section 209. Conforming amendments and proposed changes in law*

This section lists all the necessary conforming amendments and changes to current law.

*Section 210. Effect on other laws*

The Director of OMB may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained pursuant to an information collection request if the disclosure is consistent with applicable law. Nothing in this Act abrogates applicable state law regarding the confidentiality of data collected by the states. The disclosure standards in Section 206 shall apply in lieu of the general disclosure standards of the Freedom of Information Act.

#### IV. LEGISLATIVE HISTORY

S. 1404, the Federal Statistical System Act of 1997 was introduced on November 7, 1997 by Senator Brownback (for himself and Senators Moynihan, Kerrey, and Thompson). S. 1404 was referred to the Committee on Governmental Affairs and was subsequently referred to the Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia.

On April 9, 1997, the Subcommittee held a hearing to examine the "Role of the Department of Commerce in Federal Statistical Gathering, Analysis and Dissemination, and Opportunities for Reform and Consolidation." The hearing examined S. 144, The Commission to Study the Federal Statistical System Act of 1997, and explored opportunities for reform and consolidation within the statistical agencies of the Federal government. The hearing was chaired by Senator Sam Brownback, Chairman of the Subcommittee on Oversight.

The following witnesses presented testimony: The Honorable Daniel Patrick Moynihan, U.S. Senator (D-NY); the Honorable Stephen Horn, U.S. Representative (R-CA); Vincent P. Barabba, General Motors Corporate Strategy and Knowledge Department; Janet Norwood, Senior Fellow of The Urban Institute; Maurine A. Haver, Chair of the Statistics Committee of the National Association of Business Economists; Leonard Nakamura, Economic Adviser of the Federal Reserve Bank of Philadelphia; and L. Nye Stevens, Director of Federal Management and Workforce Issues of the General Government Division of the U.S. General Accounting Office.

Senator Moynihan testified about his legislation, S. 144. This legislation would establish a commission of 13 Presidential and Congressional appointees, with expertise in fields such as actuarial science, finance and economics, to recommend whether statistical agencies should be consolidated. Senator Moynihan referred to the

consolidation of government statistical activities in Canada and Great Britain and emphasized the need to do the same here in the U.S. Federal government. He also stressed the need for caution in streamlining these statistical functions because of the potential consequences for personal privacy, as seen in the unauthorized accessibility of the Social Security Personal Earnings and Benefits Estimate Statements (PEBES) via the Internet.<sup>1</sup> The Commission approach would allow a careful evaluation of privacy issues to occur as part of any reorganization of the federal statistical infrastructure.

Congressman Horn proposed consolidating the Bureau of Census, the Bureau of Labor of Statistics and the Bureau of Economic Analysis into a Federal statistical service which would operate as an independent agency. He introduced legislation, H.R. 2521, the Statistical Consolidation Act of 1995, which would have established this consolidated service. He also introduced H.R. 3924 which would permit statistical data sharing among certain Federal agencies. He emphasized that reliable government statistical data is integral to decision making throughout the United States and that this function should be removed from any political influences within the Cabinet departments. He stated his bill would ensure the political independence of this data. He also expressed the need for uniform confidentiality standards for statistical data in order to allow government agencies to share the data. Finally, he pointed to the possible savings his consolidation proposal would achieve.

Mr. Barabba testified that the current statistical system must move from a “predict-and-prepare mentality” to a “sense-and-respond mentality.” He pointed to the need for shared data in order to have consistent statistical service. In addition, he emphasized that the data must be useful and that consumers of the data must have a voice in determining the relevance of the statistical data produced by the federal government. He expressed his support for a commission because much in the federal government’s statistical programs needs to be sorted out before consolidation can take place. In his oral testimony, he stated:

\* \* \* [T]he worst thing to do is to take a set of agencies that were designed for one era and mush them together without understanding what their new assignment is. So the notion of a commission to really sort out the needs of society, not just the needs of government, to design a system based on those needs would be very important.<sup>2</sup>

Finally, Mr. Barabba stressed that we need systemic change throughout Federal statistical programs rather than reforming individual statistical programs.

<sup>1</sup>Prepared statement of the Honorable Daniel Patrick Moynihan, U.S. Senator (D-NY), before the Subcommittee on the Oversight of Government Management, Restructuring, and the District of Columbia. Senate Hearing 105–170, “Role of the Department of Commerce in Federal Statistical Gathering, Analysis, and Dissemination, and Opportunities for Reform and Consolidation.” April 9, 1997. Official hearing record, page 6.

<sup>2</sup>Oral testimony of Vincent P. Barabba before the Subcommittee on the Oversight of Government Management, Restructuring, and the District of Columbia. Senate Hearing 105–170, “Role of the Department of Commerce in Federal Statistical Gathering, Analysis, and Dissemination, and Opportunities for Reform and Consolidation.” April 9, 1997. Official hearing record, page 13.

Ms. Norwood underscored the need for objectivity in any federal statistical agency. She echoed Mr. Barabba's statement that there must be organizational change and a move toward centralizing the statistical system. She testified that the consolidation should be limited to the Census Bureau, the Bureau of Labor Statistics and the Bureau of Economic Analysis. She added that the new agency must be responsible for statistical quality standards, for definition standards and for representing the system abroad.

Ms. Haver testified that a single statistical agency would address many of the problems currently facing the system today. Currently, the United States lacks statistical detail in services and high-tech industries. In addition, there is currently a problem with the response rates from businesses who are asked to provide information. This is fueled by concerns over confidentiality and the existence of statistical agencies as just one component of larger agencies with enforcement responsibilities. She testified that businesses would be more responsive if there was an independent statistical agency requesting information. She also said that within a single independent agency, there would be a single reporting form as opposed to multiple forms which ask for the same information. Finally, she testified that any consolidation must include data sharing, and that data sharing alone would not realize all the advantages and efficiencies of one consolidated agency.

Mr. Nakamura outlined the various inaccuracies in current statistical data. The inaccurate measurement of inflation overall has worsened since the 1970s where, for example, the Consumer Price Index for airfares, food at home and medical care has been overstated. Over the past three years, the U.S. economy may have been growing twice as fast as our real Gross Domestic Product growth rate figures indicate. He concluded that measuring inflation and economic growth requires on-going research and not just a change in procedures.

Mr. Stevens provided GAO's assessment of the quality of statistical data and stated that overall the quality is very good, but problems remain. He pointed to some difficulty with data sharing due to statutory restrictions and some problems with the international transactions of the U.S. economy and the way they are measured. He also outlined how the decentralized nature of the current statistical systems lends itself to inefficiencies and pointed to the benefits of consolidation as seen in the Canadian model. Finally, he said that he was not aware of any reason that would prevent the Census and the Bureau of Economic Analysis from performing their missions if they were removed from the Commerce Department. He added that the Commerce Department has historically not managed on the basis of any unifying mission. Under the Commerce Department, the Census and the BEA must compete for funding with unrelated functions such as fisheries management and weather forecasting.

#### COMMITTEE ACTION

S. 1404 was reported out of the Subcommittee by Senator Brownback, Chairman of the Senate Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia on September 23, 1998. The Senate Governmental Affairs

Committee held a mark-up on September 24, 1998. Chairman Thompson offered an amendment in the nature of a substitute on behalf of himself and Senators Brownback and Lieberman which was the result of bipartisan discussions on the bill. In addition to making technical changes to S. 1404, the amendment sunsets the Federal Commission on Statistical Policy three years after the date of enactment. It also allows the President to provide comments and suggestions on the commission's recommendations before they are submitted to Congress. The amendment clarifies that the commission has the option of recommending against a consolidation of statistical agencies if the commission finds that a consolidation would not improve the federal statistical system, and it provides expedited rules for Congress when considering the commission's recommendations. Finally, the amendment changes the short title of S. 1404 to the "Statistical Consolidation Act of 1998". The Thompson amendment in the nature of a substitute passed on a voice vote.

Senator Levin offered an amendment to strike the expedited, or "fast track", procedures, arguing that the twenty days allotted for committee review of legislation implementing the commission's recommendations was inadequate. He also argued that the prohibition on any amendment that was not germane was excessively restrictive, and that the normal legislative process was preferable to the use of expedited procedures. Senator Brownback countered that the fast track procedures were necessary to ensure timely congressional consideration of the commission's recommendations and to prevent the legislation implementing those recommendations from getting stalled in Congress. He added that germane amendments would be in order, and that S. 1404 as amended by Senator Thompson would permit the President an opportunity to review and comment on the commission's recommendations before they are submitted to Congress. Senator Thompson echoed Senator Brownback's comments. The Levin amendment passed by a vote of six yeas and three nays. Senators Domenici (by proxy), Cochran, Nickles, Levin, Akaka and Cleland voted in favor of the Levin Amendment; Senators Roth (by proxy), Brownback and Thompson voted against it.

On September 25, 1998, S. 1404 as amended was ordered reported favorably by a vote of nine yeas and zero nays: Senators Brownback, Cochran, Nickles, Levin, Lieberman, Akaka, Torricelli, Cleland, and Thompson voted "aye", and Senators Roth and Domenici voted "aye" by proxy.

#### V. ESTIMATED COSTS OF LEGISLATION

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 29, 1998.*

Hon. FRED D. THOMPSON,  
*Chairman, Committee on Governmental Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1404, the Statistical Consolidation Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Hadley.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

##### *S. 1404—Statistical Consolidation Act of 1998*

S. 1404 would establish a three-year commission to study consolidating the statistical functions of various government agencies, including the Bureau of Labor Statistics, the Bureau of the Census, and the Bureau of Economic Analysis. The legislation also would allow the identification of the individual providers of such information. Violators would be subject to imprisonment and fines.

Based on the spending of similar commissions, CBO estimates that implementing S. 1404 would cost about \$2 million over the 1999–2001, period, assuming appropriation of the necessary amounts. The legislation also would require the Office of Management and Budget to issue regulations and submit reports to the Congress. CBO estimates that any associated costs would be less than \$500,000 a year, subject to the availability of appropriated funds.

Enacting S. 1404 would allow the federal government to pursue criminal cases that it otherwise would not be able to prosecute. CBO expects that the government probably would not pursue many such cases, so we estimate that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant. Any such additional costs would be subject to the availability of appropriated funds.

Because those convicted under S. 1404 would be subject to criminal fines, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and spent in the following year. Because the bill could affect direct spending and receipts, pay-as-you-go procedures would apply. CBO expects, however, that any additional collections from enacting S. 1404 would be negligible, because of the small number of cases likely to be involved. Because any increase in direct spending would equal the fines collected with a one-year lag, the additional direct spending would also be negligible.

S. 1404 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact is Mark Hadley. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### VI. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirement of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory and paperwork impact of S. 1404. The legislation contributes to the economical operation of federal government ac-

tivities by establishing a Commission to recommend ways in which the federal statistical infrastructure can be consolidated and streamlined without adversely impacting the quality of data. The Committee finds that such a consolidation would reduce the redundancy and burden of government surveys on the public, including the time and paperwork involved in responding to the surveys, while simplifying data collection activities.

In addition, this legislation will provide uniform confidentiality protections and permit sharing of data among designated statistical agencies, which will position agencies to improve the overall cost-effectiveness of their programs. Data sharing could lead to the elimination of errors in existing data, consolidation of overlapping programs, reductions in reporting burden for the public, and opportunities to improve data quality without incurring additional costs.

#### VII. CHANGES IN EXISTING LAW

In accordance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee has determined that it is necessary to dispense with the requirements of this subsection to expedite the business of the Senate.

